

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 762 of 2004(S/S)

Sambhu Prasad Dhyani son of Late Reva Dhar Dhyani,
resident of village Udakhet, P.O. Dongri, Patti Gujru,
district Pauri Garhwal, Uttarkashi. **.....Petitioner.**

Versus

1. Supdt. of Post Offices, Pauri Dn.
Pauri Garhwal.
2. Chief Post Master General,
Uttaranchal Parimandal, Dehradun.
3. Director (Staff) Deptt. of Posts,
New Delhi.

..... Respondents.

Sri Pramod Tiwari, learned counsel for the petitioner.

Learned Standing counsel for Union of India.

28.02.2006

HON'BLE RAJESH TANDON.J.

By the present writ petition the petitioner has prayed for a writ of mandamus directing the respondents to give the appointment to the petitioner as per his qualification on compassionate ground.

Briefly stated, the father of the petitioner late Sri Reva Dhar Dhyani died on 18.10.1990 at the age of 48 years while he was in service when he was on the post of Up Dakpal (Vedikhal). The mother of the petitioner made a representation in the year 1991 to the authority concerned with a request that as she is not in a position to do the job, therefore, her son, the petitioner may be appointed in the department according to his qualification. The petitioner has again made a representation on.20.12.1999 and 21.12.2000

to the Member, Postal Services and Director General. After continuous efforts of the petitioner as well as the recommendation of the committee, petitioner got the job in Branch Post Office, Dhumakote but the petitioner was removed from service without any reason.

The recommendation for the appointment of the petitioner is quoted below:

“DEPARTMENT OF POSTS, INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL, U.P.
CIRCLE, LUCKNOW.

No.Rectt/M-5-100/98/8 dt. at Lucknow 15.1.2001

Sub. Request for appointment in respect of Sri Sambhu Prasad son of Late Reva Dhar Dhyani, Ex. SPM, Pauri Dn. In U.P. Circle on compassionate grounds.

The undersigned is directed to state that Sri Shambhu Prasad son of Late Sri Reva Dhar Dhyani Ex. SPM Pauri Dn. U.P. has requested for his appointment to the Group 'C' post on compassionate grounds. As per instructions of the Department of Personnel & Training, only 58 of the direct recruitment vacancies in the group 'C'/Group 'D' posts can be filled up on compassionate grounds. A duly constituted committee in Postal Directorate has found his case fit for compassionate appointment. As no vacancy is presently available in this Department, it has been decided to circulate his bio-date amongst the departments of Government of India situated in U.P. in pursuance of D.O. P&T O.M.No.14014/6/94-Estt.(D) dt. 09.10.1998 as amended from time to time.

All Departments/offices are requested to consider sympathetically the request of Sri Shambhu Prasad for his appointment in a suitable Group 'C' on compassionate grounds. If the candidate is found suitable, the undersigned may be intimated

immediately. The bio-date of Sri Shambhu Prasad is enclosed herewith.

*Sd/R.Ganesan
Chief Postmaster General U.P.
Circle, Lucknow.*

To

All Departments, Government of India in U.P.

Copy to:

- 1. Sri Shambhu Prasadson of late Sri Reva Dhar Dhyani, Ex. SPM, Pauri Dn. U.P. Village Odakhet P.O. Dungri Patti Gujroo, Pauri Garhwal.*
- 2. Sri A.K. Dash, Director (staff) Department of Posts Dak Bhawan, New Delhi w.r.t. his O.M. No.24-230/99-SPB. I dated 3.11.2000 for information."*

The petitioner although from time to time has filed his representation but the same has not been disposed of. Petitioner has submitted that he has also filed an application for appointment in the Department on compassionate grounds. It is well settled that the application for appointment under Dying in Harness Rules has to be disposed of expeditiously in view of the judgment of the Apex Court reported in **Smt. Sushma Gosain and others Vs. Union of India and others (1989) 4 Supreme Court Cases 468.**

The Apex Court has held as under:-

"9- We consider that it must be stated unequivocally that in all claims for appointment on compassionate grounds, there should not be any delay

in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant.”

The Division Bench of this Court in the matter of **Naresh Kumar versus Union of India and others** 2003 U.D., 167 has held as under:

“The Apex Court in the case of State of U.P. and others Vs. Paras Nath A.I.R. 1998 SC Page 2612 in para-5 has held as under:-

The purpose of Providing employment to a dependent of a Government servant dying in harness in preference to anybody else, is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. To alleviate the distress of the family, such appointment are permissible on compassionate grounds provided there are Rules providing for such

appointment. The purpose is to provide immediate financial assistance to the family of the deceased government servant.

In the case of Dhalla Ram Vs. Union of India AIR 1999 SC 564, the Hon'ble Supreme Court has held that appointment on compassionate ground is not a method of recruitment, but is a facility to provide for immediate rehabilitation to the family in distress for relieving the dependent family members of the deceased employee from destitution."

The respondents are directed to pass appropriate orders and dispose of the representation of the petitioner within a period of six weeks from the date of production of certified copy of the order.

Subject to the aforesaid observation, the writ petition is disposed of. No order as to costs.

(Rajesh Tondon.J)

Dated:28.02.2006.
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